

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

AHMED A. BASSETT,

Plaintiffs, **DECLARATION OF  
BROOKE BIRNBAUM**

-against-

THE CITY OF NEW YORK,

07-cv-08695 (HB) (MHD)

Defendant.

----- X

**BROOKE BIRNBAUM**, an attorney duly admitted to practice in the State of New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City of New York. As such, I am familiar with the facts stated below and submit this declaration to place the relevant information and documents on the record in opposition of plaintiff's motion to amend the complaint to add a claim for false arrest against Police Officer Baker and Sergeant Stremel in this matter.

2. Defendant's motion is predicated on the grounds that: (1) plaintiff's false arrest claim is barred by the application statute of limitations and (2) it does not relate back to the complaint.

3. Annexed hereto as Exhibit "A" is a copy of the Complaint in connection with the incident involving plaintiff on February 3, 2005.

Dated: New York, New York  
May 14, 2008

MICHAEL A. CARDOZO  
Corporation Counsel of  
the City of New York  
Attorney for Defendant City of New York  
100 Church Street  
New York, New York 10007  
(212) 676-1347

By:                     /s/                      
Brooke Birnbaum (BB 8338)  
Assistant Corporation Counsel

# **Exhibit A**

**JUDGE BALIN United States District Court**  
 SOUTHERN DISTRICT OF NEW YORK

AHMED A. BASSETT

SUMMONS IN A CIVIL CASE

v.  
THE CITY OF NEW YORK

CASE NUMBER 07 CIV 8695

TO: (Name and address of defendant)

The City of New York, 530 Municipal Building, NY, NY 10007

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Gary A. Fish  
 Gary S. Fish Esq  
 151 Maiden Lane #1108  
 NY, NY 10038; (212) 964-5100

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

CLERK

OCT 09 2007

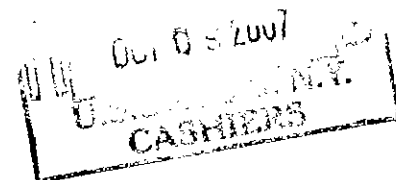
DATE

(BY) DEPUTY CLERK

**JUDGE BAER**

Gary S. Fish, Esq. (GSF 6551)  
Attorney for the Plaintiff  
15 Maiden Lane, Suite 1108  
New York, New York 10038  
(212) 964-5100

**07 CIV 8695**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X CASE NO.:  
AHMED A. BASSETT,

PLAINTIFF,

-against-

THE CITY OF NEW YORK,

DEFENDANT.  
-----X

PLAINTIFF'S COMPLAINT

(Plaintiff Demands a Trial By Jury  
Of All Issues Herein)

The plaintiff, by and through his attorney Gary S. Fish, Esq., complains of  
defendant as follows:

**I. PARTIES AND JURISDICTION**

1. On or about February 3, 2005, and at all times relevant herein, the plaintiff resided and resides at 301 West 96<sup>th</sup> Street, New York, New York 10025.
2. On or about February 3, 2005, and at all times relevant herein, on information and belief, the defendant The City of New York was and is on information and belief, a municipal corporation lawfully organized and existing under the laws of the State of New York, and on said date and at all times relevant herein, said defendant had and has its principal place of business located at 530 Municipal Building, New York, New York 10007.
3. Pursuant to 28 U.S.C. Section 1343(a)(3), the Federal Court herein has original jurisdiction to redress the deprivation of civil rights under color of any State law, statute, ordinance of any

right, privilege, or immunity secured by the U.S. Constitution, providing for equal rights of citizens or of all persons within U.S. jurisdiction, and jurisdiction exists herein.

4. Pursuant to 28 U.S.C. Section 1391(b) in a case where jurisdiction is not solely founded on diversity jurisdiction, such as the present case, venue is proper where the defendant resides or a judicial district where a substantial part of the events giving rise to the claim occurred, and venue is proper therefor in the United States District Court, Southern District of New York.

COUNT I  
(VIOLATION OF 42 U.S.C. SECTION 1983)

5. On or about February 3, 2005, plaintiff, an Egyptian-American, was working as an independent contractor at a family business known as West End Deli, 96<sup>th</sup> and West End Avenue, New York, New York 10025

6. On or about February 3, 2005, the defendant and/or its agents, servants and/or employees wrongly, intentionally, and falsely accused the plaintiff of knowingly receiving stolen merchandise, to wit, computers and components, and, without warrant and probable cause, arrested the plaintiff, and charged him with a felony, Penal Law Section 165.45, People of the State of New York v. Ahmed A. Basset, Docket #: 2005NY008717.

7. Plaintiff was intentionally, wrongfully and without probable cause, falsely confined as a result of the subject false arrest.

8. On or about May 18, 2005, per Certificate of Disposition #: 43046 attached hereto, The Court, per Judge Martin Murphy in People of the State of New York v. Ahmed A. Basset, dismissed the case against the plaintiff. This dismissal was at the request of the Assistant District Attorney, on the ground that The People, at this pre-trial stage, admitted it could not prove its

case against plaintiff (defendant therein) beyond a reasonable doubt.

9. Plaintiff was prosecuted maliciously, intentionally and without probable cause.

10. The false arrest, and/or false imprisonment and/or malicious prosecution of the plaintiff, an Egyptian- American Male, was wrongful, intentional, without justification and/or without probable cause, was part of a substantial and continuous pattern of wrongdoing and stereotypical racial and/or ethnic profiling and discrimination by the defendant against Egyptian-Americans, and plaintiff was thereby denied equal rights, protection, privileges and immunities protected under law pursuant to 42 U.S.C. Section 1983.

11. The violation of plaintiff's rights secured under 42 U.S.C. Section 1983, was malicious, oppressive, egregious and opprobrious, was calculated to and did result in the loss of his liberty and property rights, and defendant is liable for punitive and exemplary damages as a result thereof.

12. As a direct result of defendant's violations of plaintiff's rights, privileges and immunities secured under 42 U.S.C. Section 1983, the plaintiff was caused to incur and will incur reasonable attorney fees and costs.

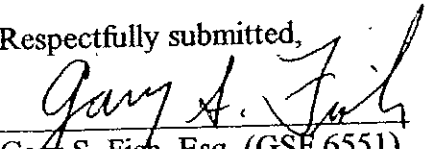
WHEREFORE, plaintiff prays for relief as follows:

1. For damages in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00);
2. For punitive and exemplary damages in the amount of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00);
3. For reasonable attorney fees and costs;
4. For disbursements; and

5. For any other just relief deemed proper by the Court.

DATED: NEW YORK, NEW YORK  
OCTOBER 9, 2007

Respectfully submitted,

  
Gary S. Fish, Esq. (GSF 6551)  
Attorney for the Plaintiff  
15 Maiden Lane, Suite 1108  
NY, NY 10038; (212) 964-5100

MINAL COURT OF THE CITY OF NEW YORK  
UNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK  
VS

CERTIFICATE OF DISPOSITION  
NUMBER: 43046

BASSET, AHMED A  
Defendant

05/14/1981  
Date of Birth

301 WEST 96 STREET  
Address

6129097R  
NYSID Number

MANHATTAN NY  
City State Zip

02/03/2005  
Date of Arrest/Issue

Docket Number: 2005NY008717

Summons No:

165.45  
Arraignment Charges

Case Disposition Information:

<u>Date</u>	<u>Court Action</u>	<u>Judge</u>	<u>Part</u>
05/18/2005	DISMISSED AND SEALED	MURPHY, MARTIN	F

**SEALED**

*(Pursuant to Section 160.50 of the CPL)*

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN  
THIS COURT.

PRANCKEVIC, M  
COURT OFFICIAL SIGNATURE AND SEAL

08/03/2005  
DATE

FEE: 10.00

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT  
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

Index No. 07-cv-08695 (HB) (MHD)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AHMED A. BASSETT,

Plaintiffs,

-against-

THE CITY OF NEW YORK,

Defendant.

**DECLARATION OF  
BROOKE BIRNBAUM AND EXHIBIT**

***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York  
Attorney for Defendant City of New York  
100 Church Street  
New York, New York 10007*

*Of Counsel: Brooke Birnbaum  
Tel: (212) 676-1347  
NYCLIS No.*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 200...*

*..... Esq.*

*Attorney for .....*